

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

JAMMAL, <i>et al.</i> ,)	CASE NO. 1:13 CV 437
)	
Plaintiffs,)	
)	
v.)	JUDGE DONALD C. NUGENT
)	
AMERICAN FAMILY)	
INSURANCE CO., <i>et al.</i> ,)	
)	
Defendants.)	<u>MEMORANDUM OPINION AND ORDER</u>
)	

This matter is before the Court on Defendants' Motion requesting Judgment in their favor on all claims. (ECF #338). The question of Plaintiffs' employment status was previously tried to an advisory jury which found that Plaintiffs were employees and not independent contractors. (ECF #301). The Court adopted the jury's findings as part of its findings of fact and conclusions of law, which found that Plaintiffs had been treated as employees by the Defendants. (ECF #320). As part of its opinion, the Court permitted Defendants to file an interlocutory appeal on this issue. On appeal, the Sixth Circuit Court overturned the jury's verdict, ruling that the Plaintiff agents were independent contractors and not employees for purposes of ERISA. (ECF

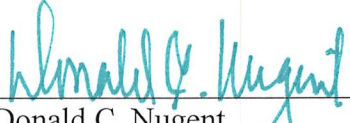
#335, 337). Plaintiffs petitioned for en banc review of this decision, but the petition was denied. (U.S. Ct. App. 6th Cir., Case No. 17-4125, docket no.s 58 and 67). The case was then further stayed to allow Plaintiffs to seek a writ of certiorari from the United States Supreme Court, which the Supreme Court ultimately denied. (ECF #344-46).

From the inception of this litigation, all parties have agreed that if the Plaintiffs were found to be independent contractors, this case would necessarily be resolved in favor of the Defendants. Hence, following the Sixth Circuit's ruling, Defendants filed a request for judgment. (ECF #338). Plaintiffs' Response to this request offered no substantive objections, but sought to have any judgment stayed until after disposition of their request for certiorari to the Supreme Court. (ECF #339, 340). The Court issued the requested stay. (ECF #343). Following the denial of a writ of certiorari, the stay was lifted and both parties were given the opportunity to file any supplement, response, or proposed order that they may deem appropriate in connection with the Defendants' Motion for Judgment. (ECF #347).

Defendants filed a supplemental brief outlining and providing support for their position that none of Plaintiffs claims can stand if they are not "employees" for purposes of ERISA. They also filed a Proposed Order Granting Defendants' Motion for Judgment and Dismissing Plaintiffs' Claims with Prejudice. (ECF #349). Plaintiffs filed a Supplemental Response to the Motion for Judgment, but again failed to challenge the substance of Defendants' request or any of the legal and factual support behind it. Instead, Plaintiffs sought again to have the judgment stayed pending the Supreme Court's disposition of their petition for rehearing on their request for certiorari. (ECF # 348). The petition for rehearing was denied, as announced at the January 24, 2020 conference. (U.S. Sup. Ct. Case No. 19-248). Therefore, there is no remaining

justification for a stay, and Plaintiffs request for such is, hereby, DENIED as moot.

Plaintiffs have offered no substantive objection to Defendants Motion for Judgment. Further, the Court finds that Defendants' request for judgment is well supported both factually and legally, as outlined in their original and supplement briefs,(ECF #338, 349). Therefore, Defendants' Motion for Final Judgment is GRANTED, and the proposed Judgment Order and Entry found at ECF #349-1 and ECF #349-2 will be adopted as written. IT IS SO ORDERED.


Donald C. Nugent
United States District Judge

Date: _____

